



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
FILLMORE FIELD OFFICE

35 East 500 North
Fillmore, UT 84631



In Reply Refer to:
3800
(U-010)
UTU-078262

March 25, 2003

CERTIFIED MAIL #7000 1530 0006 2417 2789
RETURN RECIEPT REQUESTED

RECEIVED

MAR 27 2003

DIV. OF OIL, GAS & MINING

DECISION

TERRY COOK :
885 S OAK DR. : NOTICE UTU-078262
WOODLAND HILLS UT 84653 :

Notice Expired-Reclamation Required

Notice UTU-078262 was filed with this office on August 6, 1999. The Surface Management regulations, 43 CFR 3809.300(a), require that an operator wishing to extend his/her notice which was on file as of January 20, 2001, notify the BLM in writing on or before the expiration date, January 20, 2003, and meet the financial guarantee requirements of § 3809.503. The Bureau of Land Management (BLM) did not receive written notification that you wished to extend your notice by January 20, 2003 (extended to January 21, 2003 due to a federal holiday). Because you did not meet the requirements under § 3809.333, your notice, UTU-078262, expired on January 20, 2003.

Pursuant to § 3809.300(d), you may not conduct operations under an expired notice. If you wish to resume operations, you may postpone reclamation if you file either a new notice pursuant to § 3809.301 or a plan of operations pursuant to § 3809.401 within 30 days from receipt of this decision. The performance standards outlined in § 3809.420 and the financial guarantee requirements provided in § 3809.500, et seq., apply to both notices and plans. The notice must be accepted, or the plan of operations must be approved and a financial guarantee accepted, prior to any additional earth disturbing activities occurring at

this site. If the newly submitted notice is not accepted, or the plan of operations is not approved or you do not timely post the appropriate financial guarantee as requested for either a notice or a plan of operation, you must begin reclamation within 30 days of BLM's decision finding that the new notice or plan of operations or financial guarantee is incomplete or unacceptable.

If you do not submit a new notice or plan within 30 days from receipt of this decision, reclamation must begin on the 31st day, and be completed at the earliest feasible time, unless you contact this office and gain approval to postpone commencement. To ensure that you meet the standards described in § 3809.420(b)(3) (identical to § 3809.1-3 (d)(4) of the regulation effective immediately before January 20, 2001), an inspection of the site subject to your notice was conducted on March 20, 2003, and revealed the following items that must be completed:

1. Removal of all equipment and debris
2. Recontouring the quarry area
3. Ripping the staging area and road
4. Spreading fines and topsoil over the disturbed area
5. Spreading an appropriate quantity and quality of seed over the site and passing over it with the dozer.

In accordance with §3809.420(b)(3)(iii) (identical to § 3809.1-3(5) of the regulations effective immediately before January 20, 2001), you must notify this office upon completion of reclamation. BLM will schedule an inspection to verify whether you have met your reclamation obligations and notify you promptly in writing of the results of the inspection and close your notice if appropriate.

Your reclamation obligation continues beyond the expiration of your notice until such time as BLM determines that the reclamation is satisfactorily completed. Failure to begin reclamation promptly or to conduct reclamation to BLM specified standards is subject to the enforcement actions specified in § 3809.601 to § 3809.701 and to forfeiture of your financial guarantee as authorized by § 3809.595. If you are presently engaged in occupancy, under § 3715, of the lands encompassed by your expired notice, you may also be subject to enforcement actions as specified at § 3715.7-1.

If you do not agree and are adversely affected by this decision, in accordance with § 3809.800, you may request that the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM

shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellants success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

Lex Lowrey

Enclosure:

43 CFR 3809 Regulations
Form 1842-1

cc: Tom Munson, UDOGM (S/027/080)
Dave Peterson, 545 S. Oak Drive, Woodland Hills, UT 84653



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Your reclamation obligation continues beyond the expiration of your notice until such time as BLM determines that the reclamation is satisfactorily completed. Failure to begin reclamation promptly or to conduct reclamation to BLM specified standards is subject to the enforcement actions specified in § 3809.601 to § 3809.701 and to forfeiture of your financial guarantee as authorized by § 3809.595. If you are presently engaged in occupancy, under § 3715, of the lands encompassed by your expired notice, you may also be subject to enforcement actions as specified at § 3715.7-1.

If you do not agree and are adversely affected by this decision, in accordance with § 3809.800, you may request that the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM

State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in § 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of BLM's receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM State Office to determine when BLM receives the request for State Director Review. You have 30 days from the end of the 21day period in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass a State Director review, this decision may be appealed directly to the IBLA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office at 35 East 500 North, Fillmore, UT, 84631 within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal

shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellants success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

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